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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2066

JONATHAN M. BLOCK
P. O. Box 1805
Bishop, California 93515

A C C U S A T I O N

Respiratory Care Practitioner License No. 12375

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California (Board), Department of Consumer Affairs.

2. On or about January 9, 1989, the Board issued Respiratory Care Practitioner License Number 12375 to Jonathan M. Block (Respondent). This license expired on December 31, 2006, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless

1 otherwise indicated.

2 4. Section 3710 of the Code states: “The Respiratory Care Board of
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
4 8.3, the Respiratory Care Practice Act].”

5 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
6 and revoke licenses to practice respiratory care as provided in this chapter.”

7 6. Section 3750 of the Code states:

8 “The board may order the denial, suspension or revocation of, or the imposition of
9 probationary conditions upon, a license issued under this chapter, for any of the following
10 causes:

11 “... .

12 “(d) Conviction of a crime that substantially relates to the qualifications,
13 functions, or duties of a respiratory care practitioner. The record of conviction or a
14 certified copy thereof shall be conclusive evidence of the conviction.

15 “... .”

16 7. Section 3752 of the Code states:

17 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
18 made to a charge of any offense which substantially relates to the qualifications,
19 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
20 the meaning of this article. The board shall order the license suspended or revoked, or
21 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
22 conviction has been affirmed on appeal or when an order granting probation is made
23 suspending the imposition of sentence, irrespective of a subsequent order under Section
24 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
25 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
26 accusation, information, or indictment.”

27 8. Section 490 of the Code states:

28 “A board may suspend or revoke a license on the ground that the licensee has

been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

9. California Code of Regulations, Title 16, section 1399.370, states:

“For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

“ . . .

“(c) Conviction of a crime involving driving under the influence or reckless driving while under the influence.

“ ”

COST RECOVERY

10. Section 3753.5, subdivision (a) of the Code states:

“In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case.”

11. Section 3753.7 of the Code states:

“For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other

1 administrative, filing, and service fees.”

2 12. Section 3753.1, subdivision (a) of the Code states:

3 “An administrative disciplinary decision imposing terms of probation may
4 include, among other things, a requirement that the licensee-probationer pay the monetary
5 costs associated with monitoring the probation.”

6 13. Section 118 of the Code states:

7 “ . . .

8 “(b) The suspension, expiration, or forfeiture by operation of law of a license
9 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
10 of the board or by order of a court of law, or its surrender without the written consent of
11 the board, shall not, during any period in which it may be renewed, restored, reissued, or
12 reinstated, deprive the board of its authority to institute or continue a disciplinary
13 proceeding against the licensee upon any ground provided by law or to enter an order
14 suspending or revoking the license or otherwise taking disciplinary action against the
15 licensee on any such ground.

16 “(c) As used in this section, ‘board’ includes an individual who is authorized by
17 any provision of this code to issue, suspend, or revoke a license, and ‘license’ includes
18 ‘certificate,’ ‘registration,’ and ‘permit.’”

19 CAUSE FOR DISCIPLINE

20 (Conviction of a Crime)

21 14. Respondent is subject to disciplinary action under sections 3750,
22 subdivision (d), 3752 and 490 of the Code, and California Code of Regulations, Title 16, section
23 1399.370, subdivision (c), in that he was convicted of a crime substantially related to the
24 qualifications, functions or duties of a respiratory care practitioner. The circumstances are as
25 follows:

26 January 9, 2006 Conviction

27 A. On or about March 10, 2005, a Bishop police officer responded to a report
28 that respondent was passed out behind the wheel of his vehicle with the engine running.

1 Respondent had been seen drinking at a bar earlier in the day. Upon contact with
2 Respondent, the officer noticed there was a strong odor of alcohol coming from his breath
3 and person, and his eyes were red and watery. When Respondent exited his vehicle, he
4 could not stand up on his own. Respondent refused to take a blood alcohol content test,
5 in violation of his Mono County court probation. He was issued a Notice to Appear.

6 B. On or about March 30, 2005, in Inyo County Superior Court Complaint
7 No. 05-0038494-002, Respondent was charged with public intoxication, in violation of
8 Penal Code section 647, subdivision (f), a misdemeanor.

9 C. On or about January 9, 2006, pursuant to a negotiated plea agreement,
10 Respondent was convicted upon his plea of no contest to the stipulated lesser offense of
11 unreasonable noise, in violation of Penal Code section 415(2), a misdemeanor.
12 Proceedings were suspended, and Respondent was placed on probation for two years on a
13 number of terms and conditions, among others: pay fines and fees of \$280.00, pay a
14 restitution fine of \$100.00 (suspended), and submit to alcohol testing upon the request of
15 any peace officer.

16 January 6, 2003 Conviction

17 D. On or about November 14, 2002, in Mono County Superior Court
18 Complaint No. EK4505, Respondent was charged with driving under the influence of
19 alcohol or drugs, in violation of Vehicle Code section 23152, subdivision (a), a
20 misdemeanor (Count 1), and driving with .08% or higher blood alcohol level, in violation
21 of Vehicle Code section 23152, subdivision (b), a misdemeanor (Count 2).

22 E On or about January 6, 2003, pursuant to a negotiated plea agreement,
23 Respondent was convicted upon his plea of no contest to driving with .08% or higher
24 blood alcohol level (Count 2). Proceedings were suspended. Respondent was placed on
25 probation for three years with various terms and conditions, among others: pay fines and
26 fees of \$1,345.00, complete a licensed first-offender alcohol program, and submit to
27 chemical testing for alcohol detection. His license was restricted for 90 days.
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